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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/775,387

02/10/2004

Mary L. Parker

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06/28/2004

FROMMER LAWRENCE & HAUG
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EXAMINER

COLLINS, DOLORES R

ART UNIT

PAPER NUMBER

3712

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/775,387

Applicant(s)

PARKER, MARY L.

Examiner

Dolores R. Collins

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3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Double Patenting

Claims 1-3 & 9-12 are rejected under the judicially created doctrine of double patenting over claims 1-25 of U. S. Patent No. 6,464,222 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: A method of facilitating dinner party conversation.

Claims 4-8 are provisionally rejected under the judicially created doctrine of double patenting over claims 4, 7, 8 & 14 of copending Application No. 10/213, 164. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows:
Conversation promoting apparatus

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Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application.

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1- 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Nalle

Johnson discloses Question And Answer Game Structure Particularly For use In A Restaurant Of The Like.

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Regarding claims 1, 9 & 11

Johnson teaches:

- the use of open-ended questions (see claims 1-11)
- the reading aloud of open-ended questions, the answering aloud of open-ended questions and open discussion of alternate answers to the questions (col. 2, lines 62-66).

Johnson fails to teach the use of dining pieces upon which the open-ended questions are printed and the distributing of one or more dining pieces to each dining partner.

Nalle discloses an Ornamental Double-Walled Tumbler. Nalle teaches:

a tumbler or drinking glass, which can be used as a dining piece (figure 1);

a legend, message or advertisement printed on his tumbler (figure 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Johnson to include to the dining piece used by Nalle (tumbler) instead of cards in order to add an attractive feature for the players.

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Nalle fails to teach the distributing of one or more dining pieces to each dining partner.

Distributing more than one dining piece to dining partners is well known in the art and would present little or no difficulty to one who is skilled.

Regarding claim 2

Johnson fails to teach the use of dining pieces upon which the open-ended questions are printed.

Nalle discloses an Ornamental Double-Walled Tumbler. Nalle teaches:

a tumbler or drinking glass, which can be used as a dining piece (figure 1);

a legend, message or advertisement printed on his tumbler (figure 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Johnson to include the dining piece used by Nalle (tumbler) instead of cards in order to add an attractive feature for the players.

Regarding claim 3

Both Johnson and Nalle fail to teach the distributing of one or more dining pieces to each dining partner.

Distributing more than one dining piece to dining partners is well known in the art and would present little or no difficulty to one who is skilled.

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Regarding claims 4-8

Johnson teaches the use of open-ended questions (see claims 1-11); the reading aloud of open-ended questions, the answering aloud of open-ended questions and open discussion of alternate answers to the questions (col. 2, lines 52-66). Johnson fails to teach the use of dining pieces upon which the open-ended questions are printed and the distributing of one or more dining pieces to each dining partner.

Nalle discloses an Ornamental Double-Walled Tumbler. Nalle teaches a tumbler or drinking glass, which can be used as a dining piece (figure 1); a legend, message or advertisement printed on his tumbler (figure 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Johnson to include to the dining piece used by Nalle (tumbler) instead of cards in order to add an attractive feature for the players.

Regarding claims 10 & 12

Johnson fails to teach the use of dining pieces upon which the open-ended questions are printed.

Nalle discloses an Ornamental Double-Walled Tumbler. Nalle teaches:

- a tumbler or drinking glass which can be used as a dining piece (figure 1);

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- a legend, message or advertisement printed on the bottom surface (i.e., unexposed) of his tumbler (figure 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Johnson to include to the dining piece used by Nalle (tumbler) instead of cards in order to add an attractive feature for the players.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and are cited to show the state of art with respect to features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ***Dolores R. Collins*** whose telephone number is ***(703) 308-8352***. The examiner can normally be reached on 8.00 A.M. - 4:30 P.M..

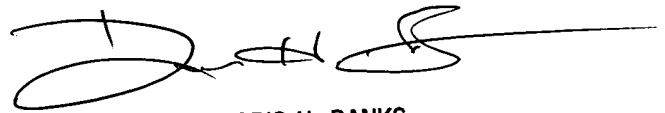
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ***Derris Banks*** can be reached on ***(703) 308-1745***. The fax phone number for the organization where this application or proceeding is assigned is ***703-872-9306***.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).



June 23, 2004



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SUPERVISORY PATENT EXAMINER
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